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Penal Servitude Act

Act No. XXIV Of 1855

Year: 1855

Sub: Law and Legislation/Acts/Penal Servitude Act

Place: India

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ACT No. XXIV OF 1855.[1]

(In reprinting this Act Arabic numerals have been substituted throughout for Roman numerals used in the Act as originally passed.)

[*13th August, 1855.*]

An Act to substitute penal servitude for the punishment

[1] Short title "The Penal Servitude Act, 1855." *See* the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. IV.

This Act has been declared to be in force in the whole of British India except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3, Genl. Acts, Vol. II.

It has been declared in force in—

British Baluchistan, by the British Baluchistan Laws Regulation, 1890 (1 of 1890), s. 3, Bal. Code; the Santhál Parganas, by the Santhál Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

Upper Burma generally (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), Bur. Code, but its application to hill-tribes in a [illegible] tract to which the Regulation applies has been barred by the Kachin Hill Tribes Regulation, 1895 (1 of 1895), and to Chins in the Chin Hills, by the Chin Hills Regulation, 1896 (5 of 1896), Bur. Code.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, to be in force in the following Scheduled Districts, namely :—

Sindh	*See* Gazette of India, 1880, Pt. I, p. 672.
Aden	Ditto, 1879, Pt. I, p. 434.
West Jalpáiguri and the Western Dwárs	Ditto, 1881, Pt. I, p. 74.
The Districts of Hazáribágh, Lohárdaga (now the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), and Manbhum, and Pargana Dhálbhum and the Kolhán in the District of Singhbhum .	Ditto, 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzápur District . .	Ditto, 1879, Pt. I, p. 383.
Jaunsar Báwar . . .	Ditto, 1879, Pt. I, p. 382.
The Districts of Hazára, Peshá-war, Kohát, Bannu, Dera Ismail Khan and Dera Ghazi Khan. *Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the North-*	

[*Price Two annas.*]

punishment of Transportation in respect of European and American Convicts [1] * * * * * * * *.

[As modified up to 1st January, 1909.]

Preamble.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation [2] * *; It is enacted as follows :—

No European or American to be sentenced to transportation.

1.[3] * * * * No European or American shall be liable to be sentenced, or ordered, by any Court within the territories [3] * * * under the Government of [3] * * India [3], to be transported.

2. Any

West Frontier Province, see *Gazette of India, 1901, Pt. I, p. 857, and* ibid, *1902, Pt. I, p. 575; but its application in that part of the Hazara District known as Upper Tanawal is barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900), Panj. and N. W. Code* .	*See* Gazette of India,	1886, Pt. I, p. 48.
The Scheduled Districts of the Central Provinces . .	Ditto,	1879, Pt. I, p. 771.
The Scheduled Districts in Ganjam and Vizagapatam .	Ditto,	1898, Pt. I, p. 870.
The District of Sylhet . .	Ditto,	1879, Pt. I, p. 631.
The rest of Assam (except the North Lushái Hills) . .	Ditto,	1897, Pt. I, p. 299.
The Porahat Estate in the Singhbhum District . .	Ditto,	1897, Pt. I, p. 1059.

It has been declared, by notification under s. 3 (5) of the last mentioned Act, not to be in force in the Scheduled District of Lahaul—*see* Gazette of India, 1886, Pt. I, p. 301.

[1] The words "and to amend the Law relating to the removal of such convicts" in the title were repealed by the Repealing and Amending Act, 1891 (12 of 1891), Genl. Acts, Vol. IV.

[2] The words "and to amend the Law relating to the removal of European and American Convicts for the purpose of imprisonment" in the preamble were repealed by the Repealing and Amending Act, 1891 (12 of 1891), Genl. Acts, Vol. IV.

[3] The words, "After the commencement of this Act," "the East" and "Company" and the words "in the possession and" in section 1, were repealed respectively by the Repealing Act, 1874 (16 of 1874), and by the Repealing Act, 1876 (12 of 1876).

2. Any person who, but for the passing of this Act, would, by any Law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

Terms of penal servitude instead of the present terms of transportation.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life.

And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

3. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other

Discretion of Courts as to alternative punishments.

other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

4. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

5. [*Power to substitute penal servitude for transportation.*] *Rep. by the Prisoners Act, 1871 (5 of 1871).*

6. [*Mode of dealing with person under sentence of penal servitude.*] *Rep. by the Prisoners Act, 1871 (5 of 1871).*

7. [*Application of enactments respecting transportation and imprisonment with hard labour.*] *Rep. by the Prisoners Act, 1871 (5 of 1871).*

8. [*Removal of convicts under sentence of imprisonment from one prison to another.*] *Rep. by the Presidency Jails Act, 1867 (12 of 1867).*

9, 10, 11 and 12. [*Licenses to convicts under sentence of penal servitude to be at large.*] *Rep. by the Prisoners Act, 1871 (5 of 1871).*

Act not to affect the provisions of certain English Statutes

13. Nothing in this Act is intended to alter or affect the[1] provisions of the 12 & 13 Victoria, Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed. 12 & 13 Vict., c. 43.

14. Any

[1] 'An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of effects of officers and soldiers dying in the service.' Rep. 20 & 21 Vict. c. 66 [(Mutiny, East India)]

Sentence when proof that a person is a European or an American.

14. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Interpretation clause.

15. The word "European," as used in this Act, shall be understood to include any person usually designated a [1]European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

16. [*Commencement of Act.*] *Rep. by the Repealing Act, 1870 (14 of 1870).*

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[1] *See* definition of European British subject in s. 4, cl. (h) (i), of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

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